

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
ANDERSON/GREENWOOD DIVISION

John S. Bryan, Individually and as
Personal Representative of the Estate
of April Bryan,

Plaintiff,

v.

Fulmer Helmets, Inc.,

Defendant.

C.A. No.8:10-cv-00793-JMC

ORDER

This matter is before the court for a review of the Magistrate Judge's Report and Recommendation ("Report") [Doc. 40], filed on February 1, 2012, recommending that this case be dismissed pursuant to Federal Rule of Civil Procedure 41(b) because Plaintiff has failed to respond to Defendant's Motion to Dismiss [Doc. 32]. The Report sets forth the relevant facts and legal standards which this court incorporates herein without a recitation.

The Magistrate Judge's Report is made in accordance with 28 U.S.C. § 636(b)(1) and Local Civil Rule 73.02 for the District of South Carolina. The Magistrate Judge makes only a recommendation to this court. *See Matthews v. Weber*, 423 U.S. 261, 270-71 (1976). The recommendation has no presumptive weight. *Id.* The responsibility to make a final determination remains with this court. *Id.* This court is charged with making a *de novo* determination of those portions of the Report to which specific objections are made, and the court may accept, reject, or modify, in whole or in part, the Magistrate Judge's recommendation, or recommit the matter with instructions. *See* 28 U.S. C. § 636 (b)(1).

The parties were notified of their right to file objections [Doc. 40-1 at 1]. Plaintiff has not filed any objections as of this date. While the court notes that objections are not due until February 21, 2012, the court enters its order at this time in light of the fact that Plaintiff has consistently ignored deadlines set by the court in this case. If Plaintiff seeks to file objections prior to the deadline, he may move for reconsideration of the court's order.

After a thorough and careful review of the record, the court finds the Magistrate Judge's Report provides an accurate summary of the facts and law in the instant case. The court accepts the Report of the Magistrate Judge and incorporates it herein by reference. For the reasons set out in the Report, this case is hereby dismissed pursuant to Federal Rule of Civil Procedure 41(b).

IT IS SO ORDERED.

A handwritten signature in black ink, reading "J. Michelle Childs". The signature is written in a cursive, flowing style.

United States District Judge

Greenville, South Carolina
February 8, 2012